



Sen. William R. Haine

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1 AMENDMENT TO HOUSE BILL 5094

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 5094 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended by  
5 changing Sections 3.135 and 39 and by adding Section 9.14 as  
6 follows:

7 (415 ILCS 5/3.135) (was 415 ILCS 5/3.94)

8 Sec. 3.135. Coal combustion by-product; CCB.

9 (a) "Coal combustion by-product" (CCB) means coal  
10 combustion waste when used beneficially for any of the  
11 following purposes:

12 (1) The extraction or recovery of material compounds  
13 contained within CCB.

14 (2) The use of CCB as a raw ingredient or mineral filler in  
15 the manufacture of the following commercial products: cement;  
16 concrete and concrete mortars; cementious ~~concrete~~ products  
17 including block, pipe and precast/prestressed components;  
18 asphalt or cementious ~~cement-based~~ roofing products ~~shingles~~;  
19 plastic products including pipes and fittings; paints and metal  
20 alloys; kiln fired products including bricks, blocks, and  
21 tiles; abrasive media; gypsum wallboard; asphaltic concrete,  
22 or asphalt based paving material.

23 (3) CCB used (A) in accordance ~~conformance~~ with the  
24 Illinois Department of Transportation ("IDOT") Standard

1 specifications and subsection 10 of this Section or (B) and  
2 under the approval of the Department of Transportation for IDOT  
3 projects.

4 (4) Bottom ash used as antiskid material, athletic tracks,  
5 or foot paths.

6 (5) Use ~~as a substitute for lime (CaO and MgO)~~ in the ~~lime~~  
7 stablization or modification of soils providing the CCB meets  
8 the IDOT ~~Illinois Department of Transportation ("IDOT")~~  
9 specifications for soil modifiers ~~byproduct limes~~.

10 (6) CCB used as a functionally equivalent substitute for  
11 agricultural lime as a soil conditioner.

12 (7) Bottom ash used in non-IDOT pavement sub-base or base,  
13 pipe bedding, or foundation backfill.

14 (8) Structural fill, when used in an engineered application  
15 or combined with cement, sand, or water to produce a controlled  
16 strength fill material and covered with 12 inches of soil  
17 unless infiltration is prevented by the material itself or  
18 other cover material.

19 (9) Mine subsidence, mine fire control, mine sealing, and  
20 mine reclamation.

21 (10) Except to the extent that the uses are in strict  
22 accordance with the appropriate ASTM standard below or are  
23 otherwise authorized by law without such restrictions, uses  
24 (a) (3) (A) and (a) (7) through (9) shall be subject to the  
25 following conditions:

26 (A) CCB shall not have been mixed with hazardous waste  
27 prior to use;

28 (B) CCB shall not exceed Class I Groundwater Standards  
29 for the following parameters ~~metals~~ when tested utilizing  
30 test method ASTM D3987-85: arsenic, barium, boron,  
31 cadmium, antimony, beryllium, chloride, chromium, cobalt,  
32 copper, iron, lead, manganese, mercury, nickel, selenium,  
33 silver, sulfate, thallium, phenol, and zinc. The sample or  
34 samples tested shall be representative of the CCB being

1       considered for use;

2           (C) Unless otherwise exempted, users of CCB shall  
3 provide notification to the Agency for each project  
4 utilizing CCB documenting the quantity of CCB utilized and  
5 certification of compliance with conditions (a) (10) (A) and  
6 (B) of this Section. Notification shall not be required for  
7 pavement base, parking lot base, or building base projects  
8 utilizing less than 10,000 tons, flowable fill/grout  
9 projects utilizing less than 1,000 cubic yards or other  
10 applications utilizing less than 100 tons;

11           (D) Fly ash shall be managed ~~applied~~ in a manner that  
12 minimizes the generation of airborne particles and dust  
13 using techniques such as moisture conditioning,  
14 granulating, inground application, or other demonstrated  
15 method; ~~and~~

16           (E) CCB is not to be accumulated speculatively. CCB is  
17 not accumulated speculatively if during the calendar year,  
18 the CCB used is equal to 75% of the CCB by weight or volume  
19 accumulated at the beginning of the period; and .

20           (F) CCB shall include any prescribed mixture of fly  
21 ash, bottom ash, boiler slag, flue gas desulfurization  
22 scrubber sludge, fluidized bed combustion ash, and stoker  
23 boiler ash and will be tested as intended for use.

24 (b) To encourage and promote the utilization of CCB in  
25 productive and beneficial applications, upon request by the  
26 applicant, the Agency shall may make a written beneficial use  
27 determinations determination that coal-combustion waste is CCB  
28 when used in a manner other than those uses specified in  
29 subsection (a) of that specified in this Section if the  
30 applicant demonstrates that use of the coal-combustion waste  
31 satisfies all of the following criteria: the use will not  
32 cause, threaten, or allow the discharge of any contaminants  
33 into the environment; the use will otherwise protect human  
34 health and safety and the environment; and the use constitutes

1 a legitimate use of the coal-combustion waste as an ingredient  
2 or raw material that is an effective substitute for an  
3 analogous ingredient or raw material ~~if the use has been shown~~  
4 ~~to have no adverse environmental impact greater than the~~  
5 ~~beneficial uses specified, in consultation with the Department~~  
6 ~~of Mines and Minerals, the Illinois Clean Coal Institute, the~~  
7 ~~Department of Transportation, and such other agencies as may be~~  
8 ~~appropriate.~~

9 The Agency's beneficial use determinations may allow the  
10 uses set forth in subsections (a) (3) (A) and (a) (7) through (9)  
11 of this Section without the CCB being subject to the  
12 restrictions set forth in subsection (a) (10) (B) and (E) of this  
13 Section.

14 Within 90 days after the receipt of an application for a  
15 beneficial use determination under this subsection (b), the  
16 Agency shall, in writing, approve, disapprove, or approve with  
17 conditions the beneficial use. Any disapproval or approval with  
18 conditions shall include the Agency's reasons for the  
19 disapproval or conditions. Failure of the Agency to issue a  
20 decision within 90 days shall constitute disapproval of the  
21 beneficial use request. These beneficial use determinations  
22 are subject to review under Section 40 of this Act.

23 Any approval of a beneficial use under this subsection (b)  
24 shall become effective upon the date of the Agency's written  
25 decision and remain in effect for a period of 5 years. If an  
26 applicant desires to continue a beneficial use after the  
27 expiration of the 5-year period, the applicant must submit a  
28 new application and fee in accordance with this subsection (b).

29 Coal-combustion waste for which a beneficial use is  
30 approved pursuant to this subsection (b) shall be considered  
31 CCB during the effective period of the approval as long as it  
32 is used in accordance with the approval and any conditions.

33 The Board shall adopt rules establishing standards and  
34 procedures for the Agency's issuance of beneficial use

1 determinations under this subsection (b). The Board rules may  
2 also, but are not required to, include standards and procedures  
3 for the revocation of the beneficial use determinations. Prior  
4 to the effective date of Board rules adopted under this  
5 subsection (b), the Agency is authorized to make beneficial use  
6 determinations in accordance with this subsection (b).

7 The Agency is authorized to prepare and distribute guidance  
8 documents relative to its administration of this Section.  
9 Guidance documents prepared under this subsection are not rules  
10 for the purposes of the Illinois Administrative Procedure Act.

11 (Source: P.A. 92-574, eff. 6-26-02.)

12 (415 ILCS 5/9.14 new)

13 Sec. 9.14. Streamlining permitting requirements.

14 (a) The General Assembly finds that existing air pollution  
15 permitting requirements should be streamlined or reduced,  
16 where:

17 (1) There is no threat to the public health or welfare  
18 from the streamlining; and

19 (2) The streamlining is not inconsistent with federal  
20 law, regulation, or policy.

21 (b) Streamlining under this Section includes, but is not  
22 limited to:

23 (1) The adoption of additional permit exemptions for  
24 categories and classes of emission units;

25 (2) The adoption of provisions for permits by rule for  
26 certain categories of minor sources for which such an  
27 approach could be effectively utilized;

28 (3) The adoption of provisions to facilitate the  
29 utilization of General Permits for categories of sources in  
30 which a significant number of similar sources exist and the  
31 permits could be effectively utilized, which permits may  
32 provide for the addition and replacement of certain  
33 emission units; and

1           (4) For certain types of new or modified emission units  
2           in appropriate circumstances, and at the applicant's own  
3           risk, the adoption of provisions allowing an applicant to  
4           commence construction of a emission unit before a permit is  
5           issued but after a complete permit application has been  
6           submitted.

7           (c) Consistent with these findings, the Board shall examine  
8           the current scope of State air pollution control permit  
9           requirements with the objective of creating additional permit  
10           exemptions and eliminating permit requirements for  
11           insignificant activities and emission units. The Agency shall  
12           propose before January 1, 2005, and the Board shall adopt,  
13           pursuant to Sections 27 and 28 of this Act, revisions to its  
14           regulations reflecting the results of the permit streamlining  
15           efforts, consistent with subsections (a) and (b) of this  
16           Section. Specifically, the Board's revisions shall include,  
17           but not be limited to, the following:

18           (1) The simplification or elimination of the  
19           requirements for construction permits to replace or add air  
20           pollution control equipment for existing emission units in  
21           circumstances where:

22                   (A) The existing emission unit is permitted and has  
23                   operated in compliance for the past year;

24                   (B) The new control equipment will provide equal or  
25                   better control of the target pollutants;

26                   (C) The new control device will not be accompanied  
27                   by a net increase in emissions of any collateral  
28                   pollutant;

29                   (D) New or different regulatory requirements will  
30                   not apply or potentially apply to the unit; and

31                   (E) The new air pollution control equipment will be  
32                   equipped with the instrumentation and monitoring  
33                   devices that are typically installed on the new  
34                   equipment of such type.

1           (2) For permitted sources that have federally  
2 enforceable state operating permits limiting their  
3 potential to emit, the simplification or elimination of the  
4 requirement for permitting of a proposed new or modified  
5 emission unit in circumstances where:

6           (A) The potential to emit any regulated air  
7 pollutant in the absence of air pollution control  
8 equipment from the emission unit is less than 0.1 pound  
9 per hour or whatever higher rate the Board deems  
10 appropriate;

11           (B) The raw materials and fuels used or present in  
12 the emission unit that cause or contribute to  
13 emissions, based on the information contained in  
14 Material Safety Data Sheets for those materials, do not  
15 contain any hazardous air pollutants as defined under  
16 Section 112(b) of the federal Clean Air Act;

17           (C) The emission unit is not subject to an emission  
18 standard or other regulatory requirement pursuant to  
19 Section 111 of the federal Clean Air Act;

20           (D) Potential emissions of regulated air  
21 pollutants from the emission unit will not, in  
22 combination with emissions from existing units or  
23 other proposed units, trigger permitting requirements  
24 under Section 39.5, permitting requirements under  
25 Sections 165 or 173 of the federal Clean Air Act, or  
26 the requirement to obtain a revised federally  
27 enforceable state operating permit limiting the  
28 source's potential to emit; and

29           (E) The source is not currently the subject of a  
30 written compliance inquiry or formal enforcement  
31 action by the State of Illinois or USEPA related to the  
32 emissions of the source.

33           (3) For permitted sources that that are not major  
34 sources subject to Section 39.5 and that do not have a

1 federally enforceable state operating permit limiting  
2 their potential to emit, the simplification or elimination  
3 of the requirement for permitting of proposed new or  
4 modified emission units before their construction and  
5 operation in circumstances where:

6 (A) The potential to emit any regulated air  
7 pollutant in the absence of air pollution control  
8 equipment from the emission unit is either:

9 (i) Less than 0.1 pound per hour or whatever  
10 higher rate the Board deems appropriate; or

11 (ii) Less than 0.5 pound per hour, or whatever  
12 higher rate the Board deems appropriate, and the  
13 permittee provides prior notification to the  
14 Agency of the intent to construct or install the  
15 unit;

16 (B) The emission unit is not subject to an emission  
17 standard or other regulatory requirement under Section  
18 111 or 112 of the federal Clean Air Act;

19 (C) Potential emissions of regulated air  
20 pollutants from the emission unit will not, in  
21 combination with the emissions from existing units or  
22 other proposed units, trigger permitting requirements  
23 under Section 39.5 or the requirement to obtain a  
24 federally enforceable permit limiting the source's  
25 potential to emit; and

26 (D) The source is not currently the subject of a  
27 written compliance inquiry or formal enforcement  
28 action by the State of Illinois or USEPA related to the  
29 emissions of the source.

30 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

31 Sec. 39. Issuance of permits; procedures.

32 (a) When the Board has by regulation required a permit for  
33 the construction, installation, or operation of any type of

1 facility, equipment, vehicle, vessel, or aircraft, the  
2 applicant shall apply to the Agency for such permit and it  
3 shall be the duty of the Agency to issue such a permit upon  
4 proof by the applicant that the facility, equipment, vehicle,  
5 vessel, or aircraft will not cause a violation of this Act or  
6 of regulations hereunder. The Agency shall adopt such  
7 procedures as are necessary to carry out its duties under this  
8 Section. In making its determinations on permit applications  
9 under this Section the Agency may consider prior adjudications  
10 of noncompliance with this Act by the applicant that involved a  
11 release of a contaminant into the environment. In granting  
12 permits, the Agency may impose reasonable conditions  
13 specifically related to the applicant's past compliance  
14 history with this Act as necessary to correct, detect, or  
15 prevent noncompliance. The Agency may impose such other  
16 conditions as may be necessary to accomplish the purposes of  
17 this Act, and as are not inconsistent with the regulations  
18 promulgated by the Board hereunder. Except as otherwise  
19 provided in this Act, a bond or other security shall not be  
20 required as a condition for the issuance of a permit. If the  
21 Agency denies any permit under this Section, the Agency shall  
22 transmit to the applicant within the time limitations of this  
23 Section specific, detailed statements as to the reasons the  
24 permit application was denied. Such statements shall include,  
25 but not be limited to the following:

26 (i) the Sections of this Act which may be violated if  
27 the permit were granted;

28 (ii) the provision of the regulations, promulgated  
29 under this Act, which may be violated if the permit were  
30 granted;

31 (iii) the specific type of information, if any, which  
32 the Agency deems the applicant did not provide the Agency;  
33 and

34 (iv) a statement of specific reasons why the Act and

1 the regulations might not be met if the permit were  
2 granted.

3 If there is no final action by the Agency within 90 days  
4 after the filing of the application for permit, the applicant  
5 may deem the permit issued; except that this time period shall  
6 be extended to 180 days when (1) notice and opportunity for  
7 public hearing are required by State or federal law or  
8 regulation, (2) the application which was filed is for any  
9 permit to develop a landfill subject to issuance pursuant to  
10 this subsection, or (3) the application that was filed is for a  
11 MSWLF unit required to issue public notice under subsection (p)  
12 of Section 39. The 90-day and 180-day time periods for the  
13 Agency to take final action do not apply to NPDES permit  
14 applications under subsection (b) of this Section, to RCRA  
15 permit applications under subsection (d) of this Section, or to  
16 UIC permit applications under subsection (e) of this Section.

17 The Agency shall publish notice of all final permit  
18 determinations for development permits for MSWLF units and for  
19 significant permit modifications for lateral expansions for  
20 existing MSWLF units one time in a newspaper of general  
21 circulation in the county in which the unit is or is proposed  
22 to be located.

23 After January 1, 1994 and until July 1, 1998, operating  
24 permits issued under this Section by the Agency for sources of  
25 air pollution permitted to emit less than 25 tons per year of  
26 any combination of regulated air pollutants, as defined in  
27 Section 39.5 of this Act, shall be required to be renewed only  
28 upon written request by the Agency consistent with applicable  
29 provisions of this Act and regulations promulgated hereunder.  
30 Such operating permits shall expire 180 days after the date of  
31 such a request. The Board shall revise its regulations for the  
32 existing State air pollution operating permit program  
33 consistent with this provision by January 1, 1994.

34 After June 30, 1998, operating permits issued under this

1 Section by the Agency for sources of air pollution that are not  
2 subject to Section 39.5 of this Act and are not required to  
3 have a federally enforceable State operating permit shall be  
4 required to be renewed only upon written request by the Agency  
5 consistent with applicable provisions of this Act and its  
6 rules. Such operating permits shall expire 180 days after the  
7 date of such a request. Before July 1, 1998, the Board shall  
8 revise its rules for the existing State air pollution operating  
9 permit program consistent with this paragraph and shall adopt  
10 rules that require a source to demonstrate that it qualifies  
11 for a permit under this paragraph.

12 (b) The Agency may issue NPDES permits exclusively under  
13 this subsection for the discharge of contaminants from point  
14 sources into navigable waters, all as defined in the Federal  
15 Water Pollution Control Act, as now or hereafter amended,  
16 within the jurisdiction of the State, or into any well.

17 All NPDES permits shall contain those terms and conditions,  
18 including but not limited to schedules of compliance, which may  
19 be required to accomplish the purposes and provisions of this  
20 Act.

21 The Agency may issue general NPDES permits for discharges  
22 from categories of point sources which are subject to the same  
23 permit limitations and conditions. Such general permits may be  
24 issued without individual applications and shall conform to  
25 regulations promulgated under Section 402 of the Federal Water  
26 Pollution Control Act, as now or hereafter amended.

27 The Agency may include, among such conditions, effluent  
28 limitations and other requirements established under this Act,  
29 Board regulations, the Federal Water Pollution Control Act, as  
30 now or hereafter amended, and regulations pursuant thereto, and  
31 schedules for achieving compliance therewith at the earliest  
32 reasonable date.

33 The Agency shall adopt filing requirements and procedures  
34 which are necessary and appropriate for the issuance of NPDES

1 permits, and which are consistent with the Act or regulations  
2 adopted by the Board, and with the Federal Water Pollution  
3 Control Act, as now or hereafter amended, and regulations  
4 pursuant thereto.

5 The Agency, subject to any conditions which may be  
6 prescribed by Board regulations, may issue NPDES permits to  
7 allow discharges beyond deadlines established by this Act or by  
8 regulations of the Board without the requirement of a variance,  
9 subject to the Federal Water Pollution Control Act, as now or  
10 hereafter amended, and regulations pursuant thereto.

11 (c) Except for those facilities owned or operated by  
12 sanitary districts organized under the Metropolitan Water  
13 Reclamation District Act, no permit for the development or  
14 construction of a new pollution control facility may be granted  
15 by the Agency unless the applicant submits proof to the Agency  
16 that the location of the facility has been approved by the  
17 County Board of the county if in an unincorporated area, or the  
18 governing body of the municipality when in an incorporated  
19 area, in which the facility is to be located in accordance with  
20 Section 39.2 of this Act.

21 In the event that siting approval granted pursuant to  
22 Section 39.2 has been transferred to a subsequent owner or  
23 operator, that subsequent owner or operator may apply to the  
24 Agency for, and the Agency may grant, a development or  
25 construction permit for the facility for which local siting  
26 approval was granted. Upon application to the Agency for a  
27 development or construction permit by that subsequent owner or  
28 operator, the permit applicant shall cause written notice of  
29 the permit application to be served upon the appropriate county  
30 board or governing body of the municipality that granted siting  
31 approval for that facility and upon any party to the siting  
32 proceeding pursuant to which siting approval was granted. In  
33 that event, the Agency shall conduct an evaluation of the  
34 subsequent owner or operator's prior experience in waste

1 management operations in the manner conducted under subsection  
2 (i) of Section 39 of this Act.

3 Beginning August 20, 1993, if the pollution control  
4 facility consists of a hazardous or solid waste disposal  
5 facility for which the proposed site is located in an  
6 unincorporated area of a county with a population of less than  
7 100,000 and includes all or a portion of a parcel of land that  
8 was, on April 1, 1993, adjacent to a municipality having a  
9 population of less than 5,000, then the local siting review  
10 required under this subsection (c) in conjunction with any  
11 permit applied for after that date shall be performed by the  
12 governing body of that adjacent municipality rather than the  
13 county board of the county in which the proposed site is  
14 located; and for the purposes of that local siting review, any  
15 references in this Act to the county board shall be deemed to  
16 mean the governing body of that adjacent municipality;  
17 provided, however, that the provisions of this paragraph shall  
18 not apply to any proposed site which was, on April 1, 1993,  
19 owned in whole or in part by another municipality.

20 In the case of a pollution control facility for which a  
21 development permit was issued before November 12, 1981, if an  
22 operating permit has not been issued by the Agency prior to  
23 August 31, 1989 for any portion of the facility, then the  
24 Agency may not issue or renew any development permit nor issue  
25 an original operating permit for any portion of such facility  
26 unless the applicant has submitted proof to the Agency that the  
27 location of the facility has been approved by the appropriate  
28 county board or municipal governing body pursuant to Section  
29 39.2 of this Act.

30 After January 1, 1994, if a solid waste disposal facility,  
31 any portion for which an operating permit has been issued by  
32 the Agency, has not accepted waste disposal for 5 or more  
33 consecutive calendar years, before that facility may accept  
34 any new or additional waste for disposal, the owner and

1 operator must obtain a new operating permit under this Act for  
2 that facility unless the owner and operator have applied to the  
3 Agency for a permit authorizing the temporary suspension of  
4 waste acceptance. The Agency may not issue a new operation  
5 permit under this Act for the facility unless the applicant has  
6 submitted proof to the Agency that the location of the facility  
7 has been approved or re-approved by the appropriate county  
8 board or municipal governing body under Section 39.2 of this  
9 Act after the facility ceased accepting waste.

10 Except for those facilities owned or operated by sanitary  
11 districts organized under the Metropolitan Water Reclamation  
12 District Act, and except for new pollution control facilities  
13 governed by Section 39.2, and except for fossil fuel mining  
14 facilities, the granting of a permit under this Act shall not  
15 relieve the applicant from meeting and securing all necessary  
16 zoning approvals from the unit of government having zoning  
17 jurisdiction over the proposed facility.

18 Before beginning construction on any new sewage treatment  
19 plant or sludge drying site to be owned or operated by a  
20 sanitary district organized under the Metropolitan Water  
21 Reclamation District Act for which a new permit (rather than  
22 the renewal or amendment of an existing permit) is required,  
23 such sanitary district shall hold a public hearing within the  
24 municipality within which the proposed facility is to be  
25 located, or within the nearest community if the proposed  
26 facility is to be located within an unincorporated area, at  
27 which information concerning the proposed facility shall be  
28 made available to the public, and members of the public shall  
29 be given the opportunity to express their views concerning the  
30 proposed facility.

31 The Agency may issue a permit for a municipal waste  
32 transfer station without requiring approval pursuant to  
33 Section 39.2 provided that the following demonstration is made:

34 (1) the municipal waste transfer station was in

1 existence on or before January 1, 1979 and was in  
2 continuous operation from January 1, 1979 to January 1,  
3 1993;

4 (2) the operator submitted a permit application to the  
5 Agency to develop and operate the municipal waste transfer  
6 station during April of 1994;

7 (3) the operator can demonstrate that the county board  
8 of the county, if the municipal waste transfer station is  
9 in an unincorporated area, or the governing body of the  
10 municipality, if the station is in an incorporated area,  
11 does not object to resumption of the operation of the  
12 station; and

13 (4) the site has local zoning approval.

14 (d) The Agency may issue RCRA permits exclusively under  
15 this subsection to persons owning or operating a facility for  
16 the treatment, storage, or disposal of hazardous waste as  
17 defined under this Act.

18 All RCRA permits shall contain those terms and conditions,  
19 including but not limited to schedules of compliance, which may  
20 be required to accomplish the purposes and provisions of this  
21 Act. The Agency may include among such conditions standards and  
22 other requirements established under this Act, Board  
23 regulations, the Resource Conservation and Recovery Act of 1976  
24 (P.L. 94-580), as amended, and regulations pursuant thereto,  
25 and may include schedules for achieving compliance therewith as  
26 soon as possible. The Agency shall require that a performance  
27 bond or other security be provided as a condition for the  
28 issuance of a RCRA permit.

29 In the case of a permit to operate a hazardous waste or PCB  
30 incinerator as defined in subsection (k) of Section 44, the  
31 Agency shall require, as a condition of the permit, that the  
32 operator of the facility perform such analyses of the waste to  
33 be incinerated as may be necessary and appropriate to ensure  
34 the safe operation of the incinerator.

1           The Agency shall adopt filing requirements and procedures  
2 which are necessary and appropriate for the issuance of RCRA  
3 permits, and which are consistent with the Act or regulations  
4 adopted by the Board, and with the Resource Conservation and  
5 Recovery Act of 1976 (P.L. 94-580), as amended, and regulations  
6 pursuant thereto.

7           The applicant shall make available to the public for  
8 inspection all documents submitted by the applicant to the  
9 Agency in furtherance of an application, with the exception of  
10 trade secrets, at the office of the county board or governing  
11 body of the municipality. Such documents may be copied upon  
12 payment of the actual cost of reproduction during regular  
13 business hours of the local office. The Agency shall issue a  
14 written statement concurrent with its grant or denial of the  
15 permit explaining the basis for its decision.

16           (e) The Agency may issue UIC permits exclusively under this  
17 subsection to persons owning or operating a facility for the  
18 underground injection of contaminants as defined under this  
19 Act.

20           All UIC permits shall contain those terms and conditions,  
21 including but not limited to schedules of compliance, which may  
22 be required to accomplish the purposes and provisions of this  
23 Act. The Agency may include among such conditions standards and  
24 other requirements established under this Act, Board  
25 regulations, the Safe Drinking Water Act (P.L. 93-523), as  
26 amended, and regulations pursuant thereto, and may include  
27 schedules for achieving compliance therewith. The Agency shall  
28 require that a performance bond or other security be provided  
29 as a condition for the issuance of a UIC permit.

30           The Agency shall adopt filing requirements and procedures  
31 which are necessary and appropriate for the issuance of UIC  
32 permits, and which are consistent with the Act or regulations  
33 adopted by the Board, and with the Safe Drinking Water Act  
34 (P.L. 93-523), as amended, and regulations pursuant thereto.

1           The applicant shall make available to the public for  
2 inspection, all documents submitted by the applicant to the  
3 Agency in furtherance of an application, with the exception of  
4 trade secrets, at the office of the county board or governing  
5 body of the municipality. Such documents may be copied upon  
6 payment of the actual cost of reproduction during regular  
7 business hours of the local office. The Agency shall issue a  
8 written statement concurrent with its grant or denial of the  
9 permit explaining the basis for its decision.

10           (f) In making any determination pursuant to Section 9.1 of  
11 this Act:

12           (1) The Agency shall have authority to make the  
13 determination of any question required to be determined by  
14 the Clean Air Act, as now or hereafter amended, this Act,  
15 or the regulations of the Board, including the  
16 determination of the Lowest Achievable Emission Rate,  
17 Maximum Achievable Control Technology, or Best Available  
18 Control Technology, consistent with the Board's  
19 regulations, if any.

20           (2) The Agency shall, after conferring with the  
21 applicant, give written notice to the applicant of its  
22 proposed decision on the application including the terms  
23 and conditions of the permit to be issued and the facts,  
24 conduct or other basis upon which the Agency will rely to  
25 support its proposed action.

26           (3) Following such notice, the Agency shall give the  
27 applicant an opportunity for a hearing in accordance with  
28 the provisions of Sections 10-25 through 10-60 of the  
29 Illinois Administrative Procedure Act.

30           (g) The Agency shall include as conditions upon all permits  
31 issued for hazardous waste disposal sites such restrictions  
32 upon the future use of such sites as are reasonably necessary  
33 to protect public health and the environment, including  
34 permanent prohibition of the use of such sites for purposes

1 which may create an unreasonable risk of injury to human health  
2 or to the environment. After administrative and judicial  
3 challenges to such restrictions have been exhausted, the Agency  
4 shall file such restrictions of record in the Office of the  
5 Recorder of the county in which the hazardous waste disposal  
6 site is located.

7 (h) A hazardous waste stream may not be deposited in a  
8 permitted hazardous waste site unless specific authorization  
9 is obtained from the Agency by the generator and disposal site  
10 owner and operator for the deposit of that specific hazardous  
11 waste stream. The Agency may grant specific authorization for  
12 disposal of hazardous waste streams only after the generator  
13 has reasonably demonstrated that, considering technological  
14 feasibility and economic reasonableness, the hazardous waste  
15 cannot be reasonably recycled for reuse, nor incinerated or  
16 chemically, physically or biologically treated so as to  
17 neutralize the hazardous waste and render it nonhazardous. In  
18 granting authorization under this Section, the Agency may  
19 impose such conditions as may be necessary to accomplish the  
20 purposes of the Act and are consistent with this Act and  
21 regulations promulgated by the Board hereunder. If the Agency  
22 refuses to grant authorization under this Section, the  
23 applicant may appeal as if the Agency refused to grant a  
24 permit, pursuant to the provisions of subsection (a) of Section  
25 40 of this Act. For purposes of this subsection (h), the term  
26 "generator" has the meaning given in Section 3.205 of this Act,  
27 unless: (1) the hazardous waste is treated, incinerated, or  
28 partially recycled for reuse prior to disposal, in which case  
29 the last person who treats, incinerates, or partially recycles  
30 the hazardous waste prior to disposal is the generator; or (2)  
31 the hazardous waste is from a response action, in which case  
32 the person performing the response action is the generator.  
33 This subsection (h) does not apply to any hazardous waste that  
34 is restricted from land disposal under 35 Ill. Adm. Code 728.

1 (i) Before issuing any RCRA permit or any permit for a  
2 waste storage site, sanitary landfill, waste disposal site,  
3 waste transfer station, waste treatment facility, waste  
4 incinerator, or any waste-transportation operation, the Agency  
5 shall conduct an evaluation of the prospective owner's or  
6 operator's prior experience in waste management operations.  
7 The Agency may deny such a permit if the prospective owner or  
8 operator or any employee or officer of the prospective owner or  
9 operator has a history of:

10 (1) repeated violations of federal, State, or local  
11 laws, regulations, standards, or ordinances in the  
12 operation of waste management facilities or sites; or

13 (2) conviction in this or another State of any crime  
14 which is a felony under the laws of this State, or  
15 conviction of a felony in a federal court; or

16 (3) proof of gross carelessness or incompetence in  
17 handling, storing, processing, transporting or disposing  
18 of waste.

19 (j) The issuance under this Act of a permit to engage in  
20 the surface mining of any resources other than fossil fuels  
21 shall not relieve the permittee from its duty to comply with  
22 any applicable local law regulating the commencement, location  
23 or operation of surface mining facilities.

24 (k) A development permit issued under subsection (a) of  
25 Section 39 for any facility or site which is required to have a  
26 permit under subsection (d) of Section 21 shall expire at the  
27 end of 2 calendar years from the date upon which it was issued,  
28 unless within that period the applicant has taken action to  
29 develop the facility or the site. In the event that review of  
30 the conditions of the development permit is sought pursuant to  
31 Section 40 or 41, or permittee is prevented from commencing  
32 development of the facility or site by any other litigation  
33 beyond the permittee's control, such two-year period shall be  
34 deemed to begin on the date upon which such review process or

1 litigation is concluded.

2 (1) No permit shall be issued by the Agency under this Act  
3 for construction or operation of any facility or site located  
4 within the boundaries of any setback zone established pursuant  
5 to this Act, where such construction or operation is  
6 prohibited.

7 (m) The Agency may issue permits to persons owning or  
8 operating a facility for composting landscape waste. In  
9 granting such permits, the Agency may impose such conditions as  
10 may be necessary to accomplish the purposes of this Act, and as  
11 are not inconsistent with applicable regulations promulgated  
12 by the Board. Except as otherwise provided in this Act, a bond  
13 or other security shall not be required as a condition for the  
14 issuance of a permit. If the Agency denies any permit pursuant  
15 to this subsection, the Agency shall transmit to the applicant  
16 within the time limitations of this subsection specific,  
17 detailed statements as to the reasons the permit application  
18 was denied. Such statements shall include but not be limited to  
19 the following:

20 (1) the Sections of this Act that may be violated if  
21 the permit were granted;

22 (2) the specific regulations promulgated pursuant to  
23 this Act that may be violated if the permit were granted;

24 (3) the specific information, if any, the Agency deems  
25 the applicant did not provide in its application to the  
26 Agency; and

27 (4) a statement of specific reasons why the Act and the  
28 regulations might be violated if the permit were granted.

29 If no final action is taken by the Agency within 90 days  
30 after the filing of the application for permit, the applicant  
31 may deem the permit issued. Any applicant for a permit may  
32 waive the 90 day limitation by filing a written statement with  
33 the Agency.

34 The Agency shall issue permits for such facilities upon

1 receipt of an application that includes a legal description of  
2 the site, a topographic map of the site drawn to the scale of  
3 200 feet to the inch or larger, a description of the operation,  
4 including the area served, an estimate of the volume of  
5 materials to be processed, and documentation that:

6 (1) the facility includes a setback of at least 200  
7 feet from the nearest potable water supply well;

8 (2) the facility is located outside the boundary of the  
9 10-year floodplain or the site will be floodproofed;

10 (3) the facility is located so as to minimize  
11 incompatibility with the character of the surrounding  
12 area, including at least a 200 foot setback from any  
13 residence, and in the case of a facility that is developed  
14 or the permitted composting area of which is expanded after  
15 November 17, 1991, the composting area is located at least  
16 1/8 mile from the nearest residence (other than a residence  
17 located on the same property as the facility);

18 (4) the design of the facility will prevent any compost  
19 material from being placed within 5 feet of the water  
20 table, will adequately control runoff from the site, and  
21 will collect and manage any leachate that is generated on  
22 the site;

23 (5) the operation of the facility will include  
24 appropriate dust and odor control measures, limitations on  
25 operating hours, appropriate noise control measures for  
26 shredding, chipping and similar equipment, management  
27 procedures for composting, containment and disposal of  
28 non-compostable wastes, procedures to be used for  
29 terminating operations at the site, and recordkeeping  
30 sufficient to document the amount of materials received,  
31 composted and otherwise disposed of; and

32 (6) the operation will be conducted in accordance with  
33 any applicable rules adopted by the Board.

34 The Agency shall issue renewable permits of not longer than

1 10 years in duration for the composting of landscape wastes, as  
2 defined in Section 3.155 of this Act, based on the above  
3 requirements.

4 The operator of any facility permitted under this  
5 subsection (m) must submit a written annual statement to the  
6 Agency on or before April 1 of each year that includes an  
7 estimate of the amount of material, in tons, received for  
8 composting.

9 (n) The Agency shall issue permits jointly with the  
10 Department of Transportation for the dredging or deposit of  
11 material in Lake Michigan in accordance with Section 18 of the  
12 Rivers, Lakes, and Streams Act.

13 (o) (Blank.)

14 (p) (1) Any person submitting an application for a permit  
15 for a new MSWLF unit or for a lateral expansion under  
16 subsection (t) of Section 21 of this Act for an existing MSWLF  
17 unit that has not received and is not subject to local siting  
18 approval under Section 39.2 of this Act shall publish notice of  
19 the application in a newspaper of general circulation in the  
20 county in which the MSWLF unit is or is proposed to be located.  
21 The notice must be published at least 15 days before submission  
22 of the permit application to the Agency. The notice shall state  
23 the name and address of the applicant, the location of the  
24 MSWLF unit or proposed MSWLF unit, the nature and size of the  
25 MSWLF unit or proposed MSWLF unit, the nature of the activity  
26 proposed, the probable life of the proposed activity, the date  
27 the permit application will be submitted, and a statement that  
28 persons may file written comments with the Agency concerning  
29 the permit application within 30 days after the filing of the  
30 permit application unless the time period to submit comments is  
31 extended by the Agency.

32 When a permit applicant submits information to the Agency  
33 to supplement a permit application being reviewed by the  
34 Agency, the applicant shall not be required to reissue the

1 notice under this subsection.

2 (2) The Agency shall accept written comments concerning the  
3 permit application that are postmarked no later than 30 days  
4 after the filing of the permit application, unless the time  
5 period to accept comments is extended by the Agency.

6 (3) Each applicant for a permit described in part (1) of  
7 this subsection shall file a copy of the permit application  
8 with the county board or governing body of the municipality in  
9 which the MSWLF unit is or is proposed to be located at the  
10 same time the application is submitted to the Agency. The  
11 permit application filed with the county board or governing  
12 body of the municipality shall include all documents submitted  
13 to or to be submitted to the Agency, except trade secrets as  
14 determined under Section 7.1 of this Act. The permit  
15 application and other documents on file with the county board  
16 or governing body of the municipality shall be made available  
17 for public inspection during regular business hours at the  
18 office of the county board or the governing body of the  
19 municipality and may be copied upon payment of the actual cost  
20 of reproduction.

21 (g) The owner or operator of a CAAPP source is not required  
22 to obtain an air pollution control construction permit for the  
23 construction or modification of an emission unit or activity  
24 that is an insignificant activity as addressed by Title 35 of  
25 the Illinois Administrative Code, Subtitle B: Air Pollution  
26 Control, Chapter I: Pollution Control Board, Section 201.212,  
27 which rule provides that changes in the insignificant  
28 activities at a CAAPP source shall be addressed during the  
29 renewal of the CAAPP permit. Provided, however, other than  
30 excusing the owner or operator of a CAAPP source from the  
31 requirement to obtain an air pollution control construction  
32 permit for these emission units or activities, nothing in this  
33 provision shall alter or affect the liability of the CAAPP  
34 source for compliance with emission standards and other

1 requirements that apply to these emission units or activities,  
2 either individually or in conjunction with other emission units  
3 or activities constructed, modified, or located at the source.  
4 (Source: P.A. 92-574, eff. 6-26-02; 93-575, eff. 1-1-04.)".